

105 CMR 166.000: APPROVAL OF RESIDENTIAL ALCOHOL TREATMENT PROGRAMS FOR
OPERATING UNDER THE INFLUENCE OFFENDERS

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166.001: Purpose

105 CMR 166.000 is set forth for the purpose of interpreting and implementing M.G.L. c. 90, § 24 as most recently amended by St. 1982, c. 373. 105 CMR 166.00 applies only to programs, whether public or private, functioning in a facility, or any portion thereof, and which provide residential treatment to operating under the influence (OUI) offenders.

166.010: Definitions

The following definitions shall apply for the purpose of 105 CMR 166.000 unless the context or subject matter clearly requires a different interpretation.

Administrator shall mean the person charged with the general administration of the residential treatment program.

Approved Residential Alcohol Treatment Programs for Operating Under the Influence Offenders shall mean any program functioning in a facility, or portion thereof, and established for the sole purpose of providing residential treatment for court-referred offenders convicted for operating a motor vehicle while under the influence of alcohol pursuant to M.G.L. c. 90, § 24 (1)(a)(4). All such programs shall have been approved by the Division of Alcoholism (Division), Department of Public Health.

Certificate of Approval (Certificate) shall mean a non-transferable certificate issued by the Division for a two-year period to an individual, corporation or partnership, a trust, an association, an organized group of persons, department/agency or institution of the Commonwealth or any political subdivision thereof, who own and/or operate a program found to be in full compliance with 105 CMR 166.000.

Provisional Certificate of Approval shall mean a certificate issued by the Division for not more than 180 days to a program that is found to be in substantial compliance with 105 CMR 166.000 and which has demonstrated improvement and evidences potential for achieving full compliance within the said 180 day period.

Responsible Person shall mean an individual 21 years of age or older, of good moral character, with ability to make mature and accurate judgments, having no mental or physical disabilities or personality disturbances that could interfere with adequate performance of his duties and responsibilities.

166.020: Approval

(A) All residential alcohol programs established under the provisions of 105 CMR 166.000 shall obtain a Certificate of Approval. An unapproved program shall not accept referrals from any court of the Commonwealth.

(B) Each program shall be individually approved and shall pay such application fee as the Division may require.

(C) Prior to issuing a Certificate of Approval, the Division shall make a determination that the person(s) applying for the Certificate are responsible and suitable to establish and maintain a program in compliance with 105 CMR 166.000.

166.021: Data Collection

Each program shall file with the Division such data, statistics, schedules, or information as the Division may require for the purpose of approving and/or monitoring and evaluating a program's treatment program. Any program or person(s) operating a program who fails to furnish such data, statistics or information as required by the Division, or who files fraudulent returns thereof, may have its Certificate of Approval revoked.

166.022: Inspection

Each program shall be subject to visitation and inspection by the Division, and the Division shall inspect each program

- (1) prior to granting or renewing a Certificate of Approval, and
- (2) for purposes of monitoring and evaluation.

The Division shall have the right to examine the client records, books and accounts of any program if it deems such examination to be necessary for the purpose of 105 CMR 166.000

Refusal to allow entry and inspection by authorized inspectors of the Division or pursuant to warrant for inspection shall constitute full and adequate grounds for revocation of the Certificate of Approval.

166.023: Organization

Residential Programs organizing as nonprofit corporations shall be organized under M.G.L. c. 180, § 3.

166.030: General Requirements

All approved residential programs shall comply with the following:

(A) Each site proposed for a program shall require the written approval of the Division. Written approval shall also be required for any change in location of an approved program.

(B) Each facility housing a program shall be located, designed, constructed and operated so as to afford a safe and sanitary environment for residents.

(C) Programs shall comply with all state laws and regulations including the relevant portions of the State Building Code, and local ordinances applicable to buildings, fire protection, public safety or public health.

(D) Each program shall obtain a certificate of occupancy issued by the appropriate state and/or local authorities.

(E) Each program shall have a proper separation of sleeping quarters and bathroom facilities serving male and female residents.

(F) All areas and equipment shall be kept in good repair and must be maintained in a sanitary manner.

(G) Each program shall provide sufficient and separate space for the following:

- (1) Individual and group counseling sessions;
- (2) A living room or common area;
- (3) A visiting area;
- (4) A kitchen area and a dining area;
- (5) Recreation and/or exercise area.

None of these areas may be used as bedrooms for residents or staff and shall be additional to resident sleeping areas.

(H) Each program shall provide separate and sufficient office space for administrative functions and equipment. Any confidential materials kept by the program shall be under lock and key and so secured that only authorized program staff shall have access to them.

(I) Each program shall provide and maintain resident sleeping areas which have adequate lighting, heating and ventilation.

(1) Sleeping areas shall meet the following floor area requirements to provide sufficient total area for the uncrowded placement of beds and other furniture as defined below:

- (a) Private and semi-private rooms shall provide a minimum of 75 square feet per patient.
- (b) Rooms with three - four occupants shall provide a minimum of 70 square feet per patient.

(2) A program may apply in writing to the Division for a waiver of this provision.

166.031: Personal Hygiene Equipment

Adequate toilets and handwashing sinks shall be provided on each floor or each treatment area.

(A) Toilet bowls and handwashing sinks shall be provided on a ratio of at least one of each per ten residents.

(B) A shower or tub shall be provided on a ratio of at least one per 15 residents. Waivers may be sought in writing from the Division.

(C) Toilet, handwashing and bathing equipment and their surrounding areas shall be kept in good repair and their floor areas shall be maintained in a sanitary manner.

(D) Toilets and bath/shower compartments shall be separated from all rooms by solid walls or partitions. In co-ed treatment programs, separate or private toilet and bath/shower facilities shall be provided for male and female residents.

(E) Hot water supplied to plumbing fixtures accessible to residents shall be controlled to provide a minimum temperature of 125°F.

166.032: Kitchen Facilities

Each program shall maintain the capacity to provide a nutritionally balanced diet to residents through regular meals.

(A) The kitchen shall be located in a suitable area of the facility and shall provide adequate work space for the sanitary preparation and serving of all meals.

(B) Adequate sanitary storage space shall be provided for the proper storage of all foods, dishes, silverware and cooking equipment.

(C) Adequate sanitary disposal of garbage shall be provided.

166.033: Housekeeping and Maintenance

(A) All programs shall maintain the capacity to perform or arrange for the regular and timely performance of facility upkeep, *e.g.*, grounds, maintenance, rubbish removal, needed capital repairs and upkeep. Residents are expected to maintain their immediate living quarters, including common areas, in a sanitary manner.

(B) All facilities shall be kept in good repair and maintained in a safe, clean and sanitary manner, free from accumulation of dirt and rubbish.

(1) Floors walls and ceilings shall be cleaned on a regular schedule; walls and ceilings shall be maintained free from cracks and falling plaster.

(2) Housekeeping and maintenance equipment shall be kept clean, in good repair and condition, and shall be maintained in a sanitary manner.

(3) Storage areas, attics and cellars shall be kept free from accumulations of dangerous and inflammable materials such as refuse, furniture, old newspapers and other paper goods. Combustibles, such as cleaning rags and compounds, shall be kept in closed metal containers.

(4) The grounds shall be kept free from refuse and litter; sidewalks shall be kept clear of snow and ice.

(5) All windows, including combination windows, shall be kept clean.

166.034: Heating and Electrical Systems

(A) The heating system shall conform to all applicable rules and regulations established by the Department of Public Safety (520 CMR) and the State Building Code (780 CMR).

(1) Each facility shall be equipped with a heating system that is adequate to maintain a minimum temperature of 68°F during daylight hours and 64°F at night throughout the facility during the heating season.

166.034: continued

(2) Portable room heaters, such as space heaters, electrical heaters, heaters using kerosene, gas or other open flame methods are prohibited.

(B) Adequate electrical lighting, maintained in good repair, shall be provided throughout the facility in accordance with the recommended levels of the Illuminations Engineering Society.

(C) All electrical installations shall be in accordance with the requirements of the Department of Public Safety (520 CMR), the Board of Fire Prevention Regulations (527 CMR), the Massachusetts Electrical Code (527 CMR 12.00), and all other applicable regulations.

(D) An emergency source of light shall be available in all patient areas and in all corridors that lead to the principal means of egress.

(E) Night lights shall be provided in corridors, stairways, toilets, bathrooms and staff stations.

(F) Outside walks, parking lots and entrances shall be adequately lighted.

166.040: Compliance with Building Code

Each program shall comply with all the provisions for fire and safety standards of the appropriate section of the State Building Code (780 CMR) as defined by the State Building Code Commission.

166.041: Proof of Inspection

Each facility shall be inspected by the authorized inspectors of the authorized agency for fire and safety standards. Proof of such inspections and approval by the authorized inspectors shall be required prior to the issuance of any Certificate or renewal by the Division.

166.042: Evacuation Procedure

An evacuation procedure in the event of fire or other emergency shall be developed by each program. This procedure shall be in writing and all personnel shall be required to be thoroughly familiar with this procedure.

166.043: Fire Protection

Each program shall provide adequate fire protection equipment and devices appropriate to the needs of the particular facility. Each program shall consult with the local fire department regarding the selection of such devices as fire alarms and fire extinguishers.

166.050: Admission

(A) Each program shall admit and deliver services only to those individuals who have been referred by the courts pursuant to M.G.L. c. 90, § 24 as most recently amended by St. 1982, c. 373.

(B) If the program is unable to admit and/or provide adequate and appropriate care to a court-referred individual, the administrator or his designee shall notify the probation officer of the referring court as soon as possible, and shall send written notice within two business days to the judge who made the referral. The individual who cannot be admitted or detained shall be told to report to the probation officer of the referring court, and shall receive a copy of the written notice delivered to the judge.

166.050: continued

(C) Any restrictions, priorities or special admission criteria utilized by a program must be approved by the Division. Any such criteria, restrictions or priorities shall be applied equally to all potential admissions regardless of the source of payment, ability to pay, race, creed or ethnic origin. Each program shall comply with all applicable state and federal anti-discrimination laws.

(D) No program shall admit an intoxicated individual for treatment. Verbal notice of denial of admission because of intoxication shall be provided to the probation officer of the referring court and, if possible, the referring judge, as soon as possible. Written notice shall be sent within one business day. The individual denied admission shall be provided a copy of the written notice.

(E) Prior to admitting an individual, a program shall conduct a medical evaluation to establish whether the individual's health status is appropriate for the level of care provided by the program. The medical report should confirm that no acute medical problems in need of immediate inpatient medical treatment are present.

If an individual has any physical problems which would limit participation in one program component, such as physical exercise, the individual shall still be required to participate in other program components with a regimen adapted to his physical capacities.

166.051: Program

All residential programs shall provide the following:

(A) At least 14 consecutive days of confinement that is served in lieu of a jail sentence.

(B) A written description of its residential services and rules that govern program participation. This written description shall include, at a minimum, the following:

- (1) The basic philosophy of the program, including a statement that the general purposes are confinement, education and preparation for treatment;
- (2) The manner in which services are organized and delivered;
- (3) The goals and objectives of the process;
- (4) Policies on telephone privileges, receipt of mail (including a thorough check of all packages) and visitors to residents that ensure non-interference with the operation of the program. Visitors shall be limited to two per resident per week;
- (5) Staffing patterns that ensure sufficient personnel to cover the daily activities of the residents and ensure the security of the program; staffing patterns shall not, however, be modeled after intensive medical/ psychosocial rehabilitation programs;
- (6) A daily schedule of resident activities and rules that govern client participation in these activities;
- (7) Provisions for security that include:
 - (a) Measures to ensure that residents do not leave the facility, temporarily or permanently, without notifying a member of the administrative or counseling staff;
 - (b) A sign-in system for all visitors, staff and residents;
 - (c) A census count shall be taken during each activity/counseling session during each day;
- (8) Procedures for providing notice to referring courts that any of the following has occurred:
 - (a) The program is operating at capacity and cannot accept further referrals;
 - (b) An individual referred by the court cannot be admitted for some reason, including intoxication;
 - (c) A resident has voluntarily left or has been involuntarily terminated prior to completion of the program;
 - (d) A resident has completed the program. Notice of completion shall include:
 1. A written evaluation of the resident's behavior and attitude during his stay at the program; and
 2. Recommendations for follow-up treatment, if necessary.

166.051: continued

(C) Individual counseling shall be provided by a qualified clinician to each resident during his program stay. The individual counseling shall consist of three sessions which include the following:

- (1) An intake diagnostic evaluation of the resident. During this evaluation, the resident shall be informed of the forthcoming service plan and participation requirements. A written copy of any rules of the program shall be provided to the resident at this time.
- (2) A termination conference for each resident who completes the program. During this conference, the resident shall be informed of his involvement with alcohol, his possible need for further counseling and treatment, and the resources available to meet that need.

(D) Educational and motivated groups shall be provided for residents by a qualified counselor or educator involving each resident each day. Each resident shall participate in two groups daily. Each group session shall run one to 1½ hours in length. The purpose of these groups sessions shall be:

- (1) To provide an educational/counseling environment;
- (2) To impart information about the physiological, psychological and social consequences of alcoholism;
- (3) To aid the individual in identifying his/her drinking behavior and the possible recovery methods and treatment options;
- (4) To motivate the resident to change any problematic behavior resulting from alcohol misuse and abuse.

(E) In addition to the above services a residential program shall appropriately provide, or make provision for a structured physical education program.

166.052: Back-Up and Transfer Agreements

Each residential program shall have formal, written agreements for the provision of the following services as needed:

- (A) Psychiatric consultative, diagnostic and evaluative services;
- (B) Acute in-patient medical, surgical or psychiatric hospitalization;
- (C) Emergency medical and psychiatric services;
- (D) Emergency transportation/ambulance services;
- (E) Any specialized services which a program provides through special arrangement, purchase or contract.

166.053: Clinical Records and Related Forms

(A) The program shall maintain a written case record for each resident. The case record shall consist of the following:

- (1) Complete initial evaluation that includes: an assessment of current and prior psycho-social functioning; current medical status and history of alcohol use; vocational history; family relationships; educational background; and socio-economic status;
- (2) A history of previous alcoholism treatment interventions;
- (3) Regular progress reports and documentation of service utilization while in residence;
- (4) A specific post-residence treatment plan;
- (5) Indication that the resident is aware of and actively involved in the entire program process.

166.053: continued

(B) Confidentiality.

(1) All records of the identity, diagnosis, prognosis or services rendered of any resident shall be considered confidential, and the federally-legislated requirements of P.L. 93-282, Confidentiality of Alcohol and Drug Abuse Patient Records and regulations promulgated thereunder, shall be followed. The records shall be kept in a secure place within the facility where only the administrator and authorized program staff shall have access to them.

(2) Each resident shall be allowed to review and make a copy, at his expense, of his personal case record.

(3) Each resident shall be able to authorize the release of his personal case record to any other person.

166.054: Death of Resident

Each program shall develop specific procedures to be followed in the event of the death of a resident.

(A) A licensed physician shall be notified immediately. The resident shall be pronounced dead by the physician within a reasonable time after death, and shall not be moved from the facility until pronounced dead by the physician or medical examiner. If a physician has pronounced the resident dead, the physician shall notify the medical examiner of the death.

(B) Provisions shall be made so that the deceased shall be removed as soon as possible from rooms used or occupied by the residents.

(C) The deceased shall be covered and transported in and from the facility in a dignified manner.

(D) Reasonable efforts shall be made by the administrator to notify the deceased's next of kin before the deceased is removed from the facility. A written record of these efforts shall be maintained.

(E) The referring court shall be notified of the death as soon as possible. Written notice shall be sent within two business days.

166.060: General Requirements

(A) The ownership of each private program shall be fully disclosed to the Division including the names and addresses of all owners or controlling persons whether they be individuals, partnerships, corporations or subdivisions of other legal entities.

(B) The governing body of each program shall develop a timely written statement of the program's purpose and written procedures for the implementation of the goals and objectives necessary to meet that purpose. The statement and/or procedures shall include a detailed plan for financing the program at the level described in the implementation document.

(C) Non-profit incorporated programs shall have a board which may be governing or advisory.

166.061: Administrator

Each program shall have a qualified administrator. In addition, each program shall establish policies which describe its organization and establish lines of authority and responsibility within the staff.

166.061: continued

(A) The administrator shall be on the premises during the working day. He shall devote such time as is necessary to the proper administration of the program. He may also function as a staff member to the extent such function does not interfere with his administrative duties. In his absence, a professional staff person shall be designated to act for him. This designation shall not exceed a continuous period of more than one month, unless prior written approval is obtained from the Division.

(B) The administrator shall have the responsibility to determine whether a resident is complying with the requirements of the program. Non-compliance by the resident may result in involuntary termination. At a minimum, any of the following rule violations shall be considered non-compliance with program requirements:

- (1) Consumption of alcoholic beverages;
- (2) Consumption of mood-altering drugs for recreational use;
- (3) Leaving the program premises without prior permission.

(C) All involuntary terminations of a resident from the program shall be made by decision of the administrator.

- (1) Prior to involuntary termination by the administrator, a resident shall be informed, in writing, of the reasons for his proposed termination;
- (2) The resident shall then be afforded an opportunity to challenge his termination with an oral presentation before the administrator;
- (3) If, after hearing the resident's oral presentation, the administrator decides to proceed with the involuntary termination, the reasons for the termination shall be placed in writing and a copy delivered to the resident. The referring court shall be notified immediately of the termination by telephone, to be followed as soon as possible by written notice.

(D) The names and telephone numbers of the administrator and/or his designee shall be posted and available to the person in charge at all times. The administrator shall insure the operation of the program, including the provision of required services to the residents on a regular basis and maintenance of an appropriate environment in accordance with 105 CMR 166.000.

(E) The ownership body shall be responsible for the employment of competent, trained personnel, and the ownership body and the administrator shall be jointly responsible for the direction of such personnel.

(F) The administrator of each program shall have the capability, by means of staff or other arrangement, to maintain fiscal records and billing systems as well as other administrative/secretarial functions necessary for the orderly and accurate operation of the program.

(G) Upon change of ownership the funds and personal belongings of all residents shall be accounted for and delivered to the new owner.

166.062: Personnel

The program shall at all times provide a sufficient number of staff to ensure security on the premises. All professional staff shall be trained, experienced and competent to provide appropriate care and treatment and supervision for all residents and to insure that their personal needs are met.

(A) Each program shall establish and maintain current, written personnel policies, including job descriptions for professionals and administrative policies and procedures that will insure decent care of the residents. Both personnel and administrative policies and procedures shall be reviewed and updated annually.

(B) Personnel shall be currently licensed, registered or certified where applicable laws require licensure, registration and certification.

166.062: continued

(C) The written program description shall also include the qualifications, duties, and lines of authority and supervision for service delivery personnel.

(D) Each program shall maintain accurate and current employee records. Employees records shall contain adequate information as to identification, educational institutions attended, all professional experience, on-the-job training and a history of previous employment. The records shall also contain evidence of adequate health supervision, including a tuberculosis test result.

(E) An annual job performance evaluation of each professional employee shall be done by the administrator or his designee. This evaluation shall become part of the employee record.

(F) All staff members shall keep abreast of current professional standards, procedures and practices to meet all aspects of admission, treatment, care, counseling and referral of residents. Each program shall develop a written personnel policy dealing with the procedure to be followed in the event that the job performance of any employee is adversely effected by the use of alcohol and/or other drugs whether on or off the premises of the program.

166.063: Resident Personal Effects and Affairs

(A) The administrator shall establish provisions for the safekeeping of the personal effects of each resident. He shall also provide for the safekeeping of monies and other property brought to the program by the resident. For the protection of valuables and to avoid unreasonable responsibility, the administrator may require that such valuables be excluded or removed from the facility.

(B) If the program does assume responsibility for the safekeeping of possessions and valuables of any resident, an accurate written record of all funds, valuables and possessions, and a list of all deposits or withdrawals shall be maintained.

(C) A statement of all funds, valuables and possessions shall be prepared on admission, transfer or discharge and shall be verified, dated and signed by both the resident and a staff member of the program.

(1) The admission of a resident shall confer on the program, its owner, administrator or employees, the right to confiscate and dispose of any alcohol and/or drugs in the possession of the resident.

(2) The admission of a resident shall confer on the program, its owner, administrator or employees, the right to confiscate and turn over to the police any weapons or other articles which could constitute a threat to the life, health or safety of the resident or the staff or public, which may be in the possession of the resident.

(3) The admission of a resident shall confer on the program, its owner, administrator or employees, the right to open and inspect any packages sent to the resident during his stay at the program. Any alcohol, recreational drugs or weapons may be confiscated by the program.

(D) Each program shall establish and maintain a procedure for notification of a resident's next of kin or sponsor and of the appropriate medical service in the event of any life-threatening emergency.

(E) The administrator shall be responsible for insuring that all required records, reports and other material concerning residents are complete, accurate, current and available within the program.

(F) All fires, deaths, food poisoning, epidemic diseases, violence, or other incidents that seriously affect the health and safety of the residents or the staff, shall be reported verbally to the Division as soon as possible. In addition, the Division shall be notified in writing within 48 hours.

166.064: Staffing

- (A) All residential programs shall have an administrator or, in his absence, his designee, on duty on the premises or residing at the facility and available for emergencies 24 hours a day, seven days a week.
- (B) Each program shall have a qualified counselor/educator to provide group counseling/education services. This person shall be qualified by training and/or experience.
- (C) Each program shall have a qualified clinical person to provide individual counseling to each resident during the course of his program stay. This clinical person shall be qualified by training and/or experience.
- (D) Each program shall have a person who shall be responsible for the structure and delivery of physical education and recreation activities. This person shall be qualified by training and/or experience.
- (E) Each program shall employ a full-time or part-time cook to supervise food preparation. The program shall provide three nutritionally balanced meals to residents each day.
- (F) Each program shall have at least one residential aide per 25 residents on duty during each shift rotation, whose primary responsibility shall be the maintenance of safety and security for program operations.
- (G) Each program shall develop an easily implemented method to evaluate services and personnel in order to learn how effective the program is in achieving its stated goals and what changes, additions, deletions, or modifications are necessary to improve the quality and scope of the program. The evaluation may be accomplished through a variety of approaches including, but not limited to:
 - (1) Self-administered questionnaires;
 - (2) Employment of outside experts to evaluate the services of the program;
 - (3) Utilization of any other valid method of evaluation;
 - (4) Data extrapolated from periodic reviews and other information in resident records.

166.080: Applications

- (A) Applicants for a Certificate of Approval to operate a program shall submit to the Division an application form and supporting documentation. The application shall be completed in full and shall contain such information as the Division may deem appropriate;
 Application forms may be obtained from:

Department of Public Health
 Division of Alcoholism
 150 Tremont Street
 Boston, MA 02111
- (B) No application shall be accepted unless it is on Division forms, contains all supporting documents, is submitted in duplicate, completed in full, sworn or attested to, and accompanied by the application fee required by the Division. Supporting documentation shall include:
 - (1) A certificate of inspection of the egresses, the means of preventing the spread of fire, and the apparatus for extinguishing fire, issued by an inspector of the Division of Public Safety.
 - (2) A certificate of inspection, issued by the head of the local fire department, certifying compliance with the local ordinances.
 - (3) The local wire inspector shall certify in writing on a form provided by the Division that, from his inspection of the premises, there is compliance with local wiring codes; any corrected minor deficiencies shall be listed. In towns that have no local wire inspector, the Division shall accept certification from a state wire inspector.
 - (4) Local board of health certification on a form provided by the Division that the facility is suitable for the purpose of conducting a residential program.
 - (5) Written zoning approval, if applicable, on a form provided by the Division.
 - (6) Proof of compliance with M.G.L. c. 180 or c. 156B.

166.080: continued

- (C) Upon receipt of an applicable application, the Division shall:
- (1) Review the application to determine whether the information is correct;
 - (2) Conduct a site visit and make an inspection of the facility to assure compliance with 105 CMR 166.000;
 - (3) Make a finding in writing if the program is in compliance with 105 CMR 166.000;
 - (4) Issue a Certificate of Approval and send written notice to the Chief Justice of the respective courts that the program has been approved.

166.081: Rejection of Applications

If the application form is not in compliance with 105 CMR 166.000, it may be rejected by the Division with a written notice to the applicant explaining the reason(s) for the rejection. The application fee shall be returned upon the written request of the applicant. The application may be resubmitted at any time after the reason(s) for the rejection have been rectified to the satisfaction of the Division.

166.082: Renewal

- (A) A Certificate of Approval shall be valid for two years from the date of issue.
- (B) The Division shall send official notification and the necessary application forms no later than 90 days prior to the expiration of an existing Certificate.
- (C) The program shall complete and return the approved application form within 30 days. The application for the renewal of a Certificate shall contain such information as the Division may deem appropriate.
- (D) If timely application for a renewal of an existing Certificate is made, the existing Certificate shall not expire until a final determination is made by the Division.
- (E) The Certificate of Approval shall be posted in a visible location in the facility. If these emergency regulations are amended to alter the terms of compliance, any program approved while 105 CMR 166.000 are in effect shall have 60 days from the effective date of the amendment to achieve compliance. After the expiration of the 60 period, non-compliance shall constitute full and adequate grounds for revocation.

166.083: Provisional Approval

The Division may issue a Provisional Certificate of Approval if the applicant is in substantial compliance with 105 CMR 166.000 and evidences a good faith intention to effect full compliance within a reasonable period of time.

- (A) The Division may issue a Provisional Certificate of Approval only when a written plan for full compliance has been provided. This written plan shall include specific target dates for accomplishing full compliance. Failure to comply with the written plan shall constitute full and adequate grounds for revocation.
- (B) A Provisional Certificate of Approval shall be valid for not more than 180 days from the date of issue and shall not be renewable.

166.084: General Waiver

Notwithstanding any of the above, the Director of the Division of Alcoholism, upon written request from a program, may waive such sections of 105 CMR 166.000 as he deems necessary to protect the public interest provided:

- (A) The waiver will not jeopardize the health and/or safety of any resident or staff member of the program; and

166.084: continued

(B) The program shall agree to comply with those regulatory sections being waived within a specified time to be determined by the Director.

(C) No waiver issued under 105 CMR 166.084 shall be valid for more than six months from the date of issue.

166.100: Notice to Division

The Division shall be notified immediately, in writing, of any proposed change in location, name or ownership of a program. A certificate of Approval cannot be transferred from one entity to another or from one location to another.

166.101: Application by New Owner

In the event of a change of ownership, the timely filed application of the new owner of the program for a Certificate of Approval shall have the effect of a provisional Certificate until a written finding is made by the Division that the new owner is in compliance with 105 CMR 166.000. Not later than 48 hours after the change of ownership has been effected, the new owner shall submit the approved application form and supportive documents as required in the application process set forth in 105 CMR 166.080.

166.110: Suspension

The Director of the Division of Alcoholism may, if he determines that the health and welfare of the residents are threatened by conditions within the program or facility, suspend the Certificate of Approval. The Certificate may be suspended immediately and a hearing, if requested, shall be held within ten business days of the suspension, in accordance with M.G.L. c. 30A and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.

166.111: Revocation

Revocation of a Certificate may take place after continued failure to comply with Division rules and regulations. The Division shall deliver to the program a Statement of Grounds detailing the reasons for revocation and the right to appeal in accordance with M.G.L. c. 30A. Failure to appeal within 30 days shall result in permanent revocation of the program's Certificate of Approval.

166.120: Temporary Closure

(A) If a program intends to temporarily cease operations, written approval for a specified period shall be obtained from the Division prior to cessation of operations. The program shall also notify the referring court for each resident enough time in advance of the closure to allow for orderly transfer of the residents to other programs. Closure of a program without prior approval from the Division shall constitute abandonment of its Certificate of Approval.

(B) If circumstances beyond the control of the program, such as a natural disaster, preclude obtaining prior approval from the Division, notice of closure must be given to the Division and to the referring courts within 24 hours of the cessation of operations. Approval of such closures shall not be automatic. The Director may determine that the closure required prior approval and the program has thus abandoned its Certificate of Approval.

166.121: Permanent Closure

If a program intends to permanently cease operation, it shall notify the Division and the referring court of each resident at least 30 days in advance of the closing. The program shall cooperate to the fullest extent possible in transferring the residents to other programs designated by the respective courts.

REGULATORY AUTHORITY

105 CMR 166.000: M.G.L. c. 90, § 24.